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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,790	10/19/2001	Todd J. Mortier	10931.0003-01	6743
	7590 09/15/201 ENDERSON, FARAE	EXAMINER		
LLP	,	WILLSE, DAVID H		
901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			ART UNIT	PAPER NUMBER
	,		3738	
			MAIL DATE	DELIVERY MODE
			09/15/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary		Application	pplication No. Applicant(s)					
		09/981,79	90	MORTIER ET AL.				
		Examine		Art Unit				
		David H. \	Villse	3738				
Period fo	The MAILING DATE of this communicati or Reply	on appears on the	e cover sheet with the o	correspondence ac	dress			
A SH WHIC - Exter after - If NC - Failu Any r	ORTENED STATUTORY PERIOD FOR EHEVER IS LONGER, FROM THE MAILING IS IN THE MAILING IN THE MAILING IS IN THE MAILING IN THE MAILING IS IN TH	NG DATE OF TH CFR 1.136(a). In no ev tition. y period will apply and w by statute, cause the app	HIS COMMUNICATION ent, however, may a reply be tir Ill expire SIX (6) MONTHS from lication to become ABANDONE	N. nely filed the mailing date of this c D (35 U.S.C. § 133).	•			
Status								
1) 又	Responsive to communication(s) filed or	n 06 July 2010						
· · · · · · · · · · · · · · · · · · ·	This action is <b>FINAL</b> . 2b) ☐ This action is non-final.							
′=	Since this application is in condition for a	<del></del>		osecution as to the	e merits is			
٠,ڪ	closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.							
Dispositi	on of Claims							
4)⊠	Claim(s) <u>60-62,64,66-68 and 83-90</u> is/ar	e pending in the	application.					
•	4a) Of the above claim(s) is/are withdrawn from consideration.							
	5) Claim(s) is/are allowed.							
· · _ ·	6)⊠ Claim(s) <u>60-62,64,66-68 and 83-90</u> is/are rejected.							
·	Claim(s) is/are objected to.	•						
	Claim(s) are subject to restriction	and/or election r	equirement.					
Applicati	on Papers							
	-	raminer						
9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.								
ا (۱۰	Applicant may not request that any objection	-	-					
	Replacement drawing sheet(s) including the				FR 1 121(d)			
11)	The oath or declaration is objected to by	•		-	, ,			
·	inder 35 U.S.C. § 119							
	Acknowledgment is made of a claim for f	oreian priority un	der 35 II S.C. & 110/a	)-(d) or (f)				
	☐ All b)☐ Some * c)☐ None of:	oreign priority un	dei 55 0.0.0. g 115(a	)-(u) 01 (1).				
۵/۱	_	uments have bee	n received					
	<ul><li>1. Certified copies of the priority documents have been received.</li><li>2. Certified copies of the priority documents have been received in Application No</li></ul>							
	3. Copies of the certified copies of the priority documents have been received in this National Stage							
	application from the International Bureau (PCT Rule 17.2(a)).							
* See the attached detailed Office action for a list of the certified copies not received.								
		27 273 2311	,					
Attachmen	t(s)							
_	e of References Cited (PTO-892)		4) Interview Summary	(PTO-413)				
2) Notic	e of Draftsperson's Patent Drawing Review (PTO-9	948)	Paper No(s)/Mail D	ate				
_	nation Disclosure Statement(s) (PTO/SB/08) r No(s)/Mail Date	5) Notice of Informal F 6) Other:	ratent Application					

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 60-62, 64, 66, 67, 83, 84, 87, and 88 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Melvin, US 5,957,977. Regarding claim 83 and others, Melvin discloses securing a ring 56 "suprajacent" the *in situ* mitral valve annulus in the left atrium 16 (column 4, line 66, to column 5, line 3), securing a first elongate member 86 indirectly through the ring 56 itself and also directly by passing said elongate member through the mitral valve annulus and through a wall of natural heart 10 to connect with yoke 70 (column 5, lines 55-58; Figures 2 and 4), and securing a second elongate member 86 to an opposing heart wall. It is noted that the term "associated" (instant claim 83, line 7) is quite broad and, under the rules of English grammar, may be interpreted as modifying "left ventricle" rather than "first heart structure". Regarding claim 62, attention is directed to column 8, lines 8-12. Regarding claim 66, the third elongate member corresponds to the septal frame 53 or to another (third) one of the cords 86. Regarding claim 84 and others, drawing papillary muscles toward the *in situ* mitral valve would have been

inherent from the tightening of the cords or elongate members **86** (column 8, lines 40-43). Regarding claim 87 and others, the suture strands **55** and the struts of the septal frame **53** can pass through bases of papillary muscles (column 8, lines 13-24).

Claims 68 and 85-90 are rejected under 35 U.S.C. 103(a) as being unpatentable over Melvin, US 5,957,977. Passing one or more of the cords or elongate members **86** through a base of a papillary muscle would have been obvious in order to help ensure proper functioning of the *in situ* mitral valve, with the ordinary practitioner having been motivated by Melvin's concern for maintaining the chordae in a proper configuration (column 5, lines 14-15; column 2, lines 51-54).

Applicant's remarks have been considered but are deemed to be moot in view of the new grounds of rejection, necessitated by the extensive revisions to the claims. Therefore:

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dave Willse, whose telephone number is 571-272-4762 and who

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is generally available Monday through Thursday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott, can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

/David H. Willse/ Primary Examiner Art Unit 3738